THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.6501 OF 2006

BETWEEN:

The Divine Constructions & Consultants(Regd.No.2002/05), Hyderabad rep.by its Managing Partner B.Radhaiah

..petitioner

vs.

The Food Corporation of India, rep. by its General manager(Regional) and another.

…Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.6501 OF 2006

ORAL ORDER

Heard the learned counsel for the respective parties.

The petitioner seeks a declaration that the inaction of the respondents in creating a conducive atmosphere for submission of tenders pursuant to the tender notification No.S&C.13/1/2006-Conts, dated.06-03-2006 is illegal and arbitrary and consequential direction to the respondents to issue a fresh tender notice to enable him to submit tenders afresh.

The respondent issued the tender notification dated. 06-03-2006 inviting tenders for handling and transport contract at FCI Depot Kakutur and at Railway goods shed Padugupadu, and other areas. The petitioner wanted to bid at the tender, went to the office of the respondents on the 3rd floor of Haka Bhavan on 28-03-2006 at about 1.45 P.M. He states that when the Managing Director of the petitioner went to the 1st respondent's office along with tender forms, a group of people numbering 25 to 30 threatened and restrained him and other tenderers who had come to submit tenders, snatched away the tender forms and obstructed the peaceful process of tendering. The petitioner also pleads that the Saifabad Police came and arrested some of the persons who created nuisance and obstruction and as there is no fair and transparent tendering

process possible, the entire process should be cancelled and fresh tender notification issued.

Sri. K.Raghavacharyulu, the learned Standing Counsel for the 1st respondent Corporation has filed a counter-affidavit, wherein it is stated that there was no widespread violation or obstruction as pleaded by the petitioner and that the process of receiving tender schedules went on smoothly but for a singular instance of one individual shouting loudly and trying to attack another person. The counter-affidavit specifically states that the police Head-constable who was on duty for security caught hold of the said person. On behalf of the respondents, a letter from the Inspector of Police, Saifabad dated.19-04-2006 is produced whereat it is recorded that around 1.50 P.M one Head Constable of the P.S. Saifabad informed that one MR.B.Srinivasa Rao of Nellore had created nuisance in front of the reception of the 1st respondent-Corporation by shouting and with a small knife; that immediately the constables of the P.S. Saifabad had taken him into custody, brought him to the police station and booked a petty case vide C.No.4062 of 2006 under Sec.70(B) of Hyderabad City Police Act. The counter-affidavit further states that all the necessary precautions for smooth conduct of filing of the tenders and processing of the tenders were taken by the respondents-Corporation. It is further stated that the writ petitioner did purchase the tender forms for bidding in respect of the Kakatur H&T contract but did not submit the tenders. On the other hand he participated in the tender enquiry in respect of another tender filed by the President, the Venkatachalam Mandal Hamali Karmika Mutually Aided Cooperative Labour Contract

society Ltd., Nellore.

The averments in the counter-affidavit filed on behalf of the 1st respondent have not been rebutted by the petitioner in any subsequent pleading. the circumstances in view of the letter of the police referred to above, it must be presumed that what took place in the office of the 1st respondent on 28-03-2006 was a minor fracas and not any serious interruption of the tendering process. For such small incident there appears no justification to cancel the whole of the tendering process and thereby mulct a public corporation with avoidable expenditure. In view of the other circumstances stated in the counter-affidavit there appears no genuine obstruction to the tendering process. There appears no justification for interdicting the tender process, as there is no fatal infirmity in the competitiveness of the tender process.

For the aforesaid reasons the writ petition is dismissed. The interim order, if any, shall stands dissolved. In the circumstances there shall be no order as to costs.

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GODA RAGHURAM,J

27th JUNE, 2006
*TSNR